

OFFICIAL FILE

ORIGINAL

ILLINOIS STATE OF ILLINOIS
COMMERCE COMMISSION

ILLINOIS COMMERCE COMMISSION

Yaodi Hu,)
)
vs.)
)
Illinois Power Company,)

ILLINOIS
COMMERCE COMMISSION

2002 OCT 11 P 1:45

Docket No. 02
CHIEF CLERK'S OFFICE

02-0248

SPECIAL AND LIMITED APPEARANCE FOR THE PURPOSE OF CHALLENGING
THE JURISDICTION OF THE ILLINOIS COMMERCE COMMISSION OVER THE
CITY OF DANVILLE, AN ILLINOIS MUNICIPAL CORPORATION

Now comes the City of Danville, an Illinois municipal corporation, by their attorneys,
Acton & Snyder, and states as follows:

On September 19, 2002, the Complainant, Yaodi Hu, filed his motion to join the City of
Danville, Illinois, as a party respondent in this action against the Illinois Power Company. The
City of Danville, is an Illinois municipal corporation and as such it is the position of the City that
the Illinois Commerce Commission would have no jurisdiction over the City.

Section 5/4-101 of the Public Utilities Act states that:

"The Commerce Commission shall have general supervision of all public utilities. . ." (see
220 ILCS 5/4-101).

A public utility is defined as a,

"corporation, company, limited liability company, association, joint stock
company or association, firm, partnership or individual, their lessees,
trustees, or receivers appointed by any court whatsoever that owns,
controls, operates or manages, within this state, directly or indirectly, for
public use, any plant, equipment or property used or to be used for or in
connection with, or owned or controls any franchise, license, permit, or
right to engage in:

- a. the production, storage, transmission, sale, delivery or
furnishing of heat, coal, power, electricity, water, or light,
except when used solely for communications purposes; (see
220 ILCS 5/3-105).

Section 105 specifically excludes from the definition of public utility "public utilities that are owned and operated by any political subdivision, public institution of higher education or **municipal corporation** of this state.


It is the position of the City of Danville that they do not meet the definition of public utility because they do not own, control, operate or manage directly or indirectly for public use any plant, equipment or property used in the connection of the sale of utility services, specifically, in this case, electricity. However, even if the Commission were to find that the City of Danville did meet the definition of a public utility they are excluded from the Act as a municipal corporation of this state. Therefore, it is the position of the City of Danville, an Illinois municipal corporation, that the Illinois Commerce Commission has no jurisdiction over the City and therefore the City should not be joined as a party in the above action.

It may be true, as stated in the response of Illinois Power Company to Mr. Hu's motion, that the City's ordinance may be relevant to the Commission's decision regarding the action brought by Mr. Hu against Illinois Power Company. However, this forum is not a proper place for Mr. Hu to challenge the City's ordinances or conduct. There are avenues available to Mr. Hu for such a challenge; and as stated above, it was not the intent of the state legislature to provide Mr. Hu a forum to challenge the ordinances or conduct of an Illinois municipal corporation before the Illinois Commerce Commission.

WHEREFORE, the City of Danville, Illinois, a municipal corporation, requests that the Illinois Commerce Commission deny the motion of Mr. Hu to include the City of Danville,

Illinois, a municipal corporation, as a party respondent for the reasons that the Illinois Commerce Commission lacks any jurisdiction over the City.

Respectfully Submitted,

By: 
Corporate Counsel for City Of Danville,
Illinois, a municipal corporation

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was served upon

Yaodi Hu, 428 E. Main St., Danville, IL 61832

Shig W. Yasunaga, Illinois Power Company, 500 S. 27th St., Decatur, IL 62521-2200

Illinois Commerce Commission, Attn: Donna M. Caton, Chief Clerk, 527 E. Capitol Ave., Springfield, IL 62701

by depositing the same in the United States Mail in Danville, Illinois, properly addressed and with proper postage affixed thereto on this 10 day of October, 2002.


Derek J Girton

Prepared by
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